

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK
3 CIV. ACTION NO.: 1:20-cv-03395
4 FULL CIRCLE UNITED, LLC,
5 Plaintiff,
6 v.

7 BAY TEK ENTERTAINMENT, INC.,
8 Defendant.

9 _____/
10 BAY TEK ENTERTAINMENT, INC.,
11 Counterclaim Plaintiff,
12 v.

13 FULL CIRCLE UNITED, LLC,
14 Counterclaim Defendant,
15 and
16 ERIC PAVONY,
17 Additional Counterclaim
18 Defendant.

19 _____/
20 Thursday, March 3, 2022
21 9:57 a.m. EST - 5:50 p.m. EST

22 CONFIDENTIAL
23 VIDEOTAPED DEPOSITION TAKEN BY REMOTE VIDEOCONFERENCE
24 OF PAT SCANLAN
25 *** EXCERPTS OF THIS TRANSCRIPT, PAGES 116-118, HAVE
BEEN DECLARED HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY
AND ARE SEALED UNDER SEPARATE COVER ***

Taken on behalf of the Plaintiff before Yvonne
Corrigan, RPR, CRR, Notary Public in and for the State
of Florida at Large, pursuant to Notice in the above
cause.

1 THE WITNESS: It's a vague -- vague
2 question. Can you be more specific, or --

3 BY MS. CASADONTE-APOSTOLOU:

4 Q. Yeah.

5 I thought I heard you say that products
6 get transitioned from research and development to
7 preproduction planning; is that correct?

8 MR. LICHTMAN: Object to form.

9 THE WITNESS: Yes, as part of the normal
10 process, when R&D has a product that is ready
11 to be launched into production, that is when
12 the preproduction team would start to get
13 involvement. That's under normal
14 circumstances.

15 The preproduction resources are another
16 set of hands that also have been pulled into
17 R&D activities to help build prototypes,
18 especially in the case where there might be a
19 request or need for multiple prototypes at a
20 smaller window of time. Generally R&D builds
21 a prototype or two at a time, but if there's a
22 request for more, we'll leverage resources
23 from throughout the business to help.

24 BY MS. CASADONTE-APOSTOLOU:

25 Q. I see.

1 Do you know whether the preproduction
2 planning team built any alley rollers for Full Circle?

3 MR. LICHTMAN: Object to form.

4 THE WITNESS: I don't -- I don't recall,
5 but they could have given that there were ten
6 of them built in a relatively short amount of
7 time.

8 BY MS. CASADONTE-APOSTOLOU:

9 Q. Who would know?

10 MR. LICHTMAN: Object to form.

11 THE WITNESS: Who would know if the
12 preproduction team built alleys for
13 Full Circle?

14 BY MS. CASADONTE-APOSTOLOU:

15 Q. Yes.

16 A. I think the project manager assigned to
17 the prototype build-out would know.

18 Q. Do you know who the -- that manager was?

19 A. Yes.

20 Q. Who was it?

21 A. Eric Schadrie.

22 Q. So as project manager, is Eric Schadrie
23 part of the operations team?

24 MR. LICHTMAN: Object to form.

25 THE WITNESS: No, he's -- sorry. He's

1 part of R&D.

2 BY MS. CASADONTE-APOSTOLOU:

3 Q. So the project manager -- okay.

4 MS. CASADONTE-APOSTOLOU: I'm ready for
5 lunch if you guys are.

6 MR. WILLIAMS: Lunch, how long do you
7 want to take?

8 MS. CASADONTE-APOSTOLOU: What do you
9 need, Mr. Scanlan?

10 MR. WILLIAMS: Let's go off the record.
11 We don't have to do this on the record.

12 THE VIDEOGRAPHER: We're going off the
13 record. The time is 12:42 p.m.

14 (Recess taken -- 12:42 p.m.)

15 (Return from recess -- 1:18 p.m.)

16 THE VIDEOGRAPHER: We're going back on
17 the record. The time is 1:18 p.m.

18 BY MS. CASADONTE-APOSTOLOU:

19 Q. Hello.

20 So you testified that you became director
21 of research and development in October 2017, correct?

22 MR. LICHTMAN: Objection. Prior
23 testimony speaks for itself.

24 Go ahead.

25 THE WITNESS: Correct.

1 Mr. Schadrie was referring to.

2 BY MS. CASADONTE-APOSTOLOU:

3 Q. So you have -- sitting here today, you
4 have no idea what he's referring to by the next build of
5 25 games in this email dated October 29th -- October 9,
6 2017 to you?

7 MR. LICHTMAN: Asked and answered.

8 THE WITNESS: Correct, I do not.

9 BY MS. CASADONTE-APOSTOLOU:

10 Q. Was it your understanding that the only
11 lanes that Bay Tek intended to build for Full Circle
12 were the 10 or 11 prototype lanes manufactured by
13 research and development?

14 MR. LICHTMAN: Object to form. Lacks
15 foundation.

16 Again, that's not in this document.

17 MS. CASADONTE-APOSTOLOU: I'm asking
18 questions, Mr. Lichtman. I don't have to only
19 be referring to the contents of the document.

20 MR. LICHTMAN: Still, lacks foundation.

21 BY MS. CASADONTE-APOSTOLOU:

22 Q. You testified, Mr. Scanlan, that research
23 and development manufactured 10 or 11 prototype lanes
24 for Full Circle; is that correct?

25 A. That is correct.

1 Q. Is it your understanding that those were
2 the only games that Bay Tek intended to manufacture for
3 Full Circle?

4 A. To my knowledge, yes.

5 Q. Do you know who would know if Bay Tek
6 intended to manufacture any other games for Full Circle?

7 MR. LICHTMAN: Object to form.

8 Speculation. Vague.

9 THE WITNESS: I don't know specifically
10 who would know that.

11 BY MS. CASADONTE-APOSTOLOU:

12 Q. If Mr. Schadrie was making changes to the
13 prototype lanes -- strike that.

14 Does the phrase "development spot" mean
15 anything to you?

16 MR. LICHTMAN: Object to form.

17 THE WITNESS: I'm familiar with that
18 term, yes.

19 BY MS. CASADONTE-APOSTOLOU:

20 Q. How are you familiar with that term?

21 MR. LICHTMAN: Object to form.

22 THE WITNESS: It's terminology we use
23 internally about parts of our process.

24 BY MS. CASADONTE-APOSTOLOU:

25 Q. Can you explain to me what that means?

1 specific to this email.

2 BY MS. CASADONTE-APOSTOLOU:

3 Q. If the Skee-Ball Live lanes were taking a
4 development spot, does that suggest to you that Bay Tek
5 intended on producing additional Skee-Ball Live lanes
6 that were not prototypes?

7 MR. LICHTMAN: Objection. Again, lacks
8 foundation. This is based on a representation
9 of counsel of a document that is in front of
10 the witness who has already represented he
11 does not recall seeing.

12 THE WITNESS: So a project can take a
13 development spot, but it does not guarantee
14 that that product will actually launch and be
15 manufactured. In fact, we've killed off
16 numerous products that have been funded, have
17 made prototypes of and tested in the field but
18 didn't actually make it to manufacturing for a
19 variety of reasons. It's all part of the
20 process.

21 BY MS. CASADONTE-APOSTOLOU:

22 Q. Do you recall any examples of the reasons
23 why a product that took a development spot didn't get
24 produced by Bay Tek?

25 MR. LICHTMAN: Object to form. Calls for

1 hypotheticals.

2 THE WITNESS: Again, yeah, there's a lot
3 of reasons why. It could be a budget doesn't
4 support it. It could be a change in direction
5 based on market factors or needs; could be
6 based on the performance of the product, both
7 physical, mechanical, and/or revenue-wise;
8 could be customer driven. There's a lot of --
9 a lot of reasons why a project would start and
10 then stop.

11 BY MS. CASADONTE-APOSTOLOU:

12 Q. Have there been any instances of products
13 that have taken a development spot that have been
14 stopped, as you said, that were -- where those products
15 were not developed by Bay Tek internally?

16 MR. LICHTMAN: Object to form.

17 THE WITNESS: Yes, there are numerous
18 products that started in development but were
19 shelved or killed and not worked on any
20 further.

21

22 (The following EXCERPT has been declared
23 HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY:)

24

25

1 MR. LICHTMAN: Object to form. Lacks
2 foundation.

3 THE WITNESS: I don't recall seeing --
4 see them when? Is there a specific time
5 period? Or see them where? See them -- just
6 see them, did I see them?

7 BY MS. CASADONTE-APOSTOLOU:

8 Q. Ever.

9 MR. LICHTMAN: Same objections.

10 THE WITNESS: I don't recall.

11 BY MS. CASADONTE-APOSTOLOU:

12 Q. Do you know where the prototype lanes
13 manufactured by Bay Tek R&D for Full Circle were
14 manufactured?

15 MR. LICHTMAN: Object to form. Lacks
16 foundation.

17 THE WITNESS: I -- I don't know
18 specifically, but they could have been --
19 could have been built in two places. Either
20 over at the R&D concept building or in the R&D
21 shop.

22 BY MS. CASADONTE-APOSTOLOU:

23 Q. Where is the R&D concept building
24 located?

25 A. It's on the same block as Bay Tek

1 Q. Is this a typical email for you to send
2 after a prototype visit, Pat?

3 MR. LICHTMAN: Object to form.

4 THE WITNESS: No, this isn't typical.

5 BY MS. CASADONTE-APOSTOLOU:

6 Q. What is -- what is atypical about this
7 email to you?

8 MR. LICHTMAN: Object to form. Lacks
9 foundation.

10 THE WITNESS: The level of interest in
11 early prototype testing by the leadership team
12 is atypical.

13 BY MS. CASADONTE-APOSTOLOU:

14 Q. Do you have any idea why there was --
15 excuse me, strike that.

16 The level of interest -- when you say
17 "level of interest," do you mean that the level of
18 interest of the leadership team was higher than typical?

19 MR. LICHTMAN: Object to form. Lacks
20 foundation.

21 This is all based on two documents that
22 the witness does not recall.

23 MS. CASADONTE-APOSTOLOU: Please don't
24 engage in speaking objections.

25 MR. LICHTMAN: I'm just stating the

1 projects that are very early on. It could be
2 ideas, it could be cardboard prototype. It
3 could be a very initial prototype. It's items
4 that we don't know yet if it's going to be a
5 game or not.

6 BY MS. CASADONTE-APOSTOLOU:

7 Q. Is there a difference -- excuse me -- are
8 you familiar with the phrase "development project" as
9 that phrase is used at Bay Tek?

10 MR. LICHTMAN: Objection. Lacks
11 foundation.

12 THE WITNESS: Yes, I am.

13 BY MS. CASADONTE-APOSTOLOU:

14 Q. Can you explain how the phrase
15 "development project" is used at Bay Tek, as far as you
16 understand it?

17 A. Yeah, generally a concept project
18 transitions to a development project when there is
19 belief that an end product is possible, that we could
20 make something we could sell. It doesn't guarantee it,
21 but it means there's a further understanding that this
22 could turn into something.

23 Q. And as a director of research and
24 development for Bay Tek, are -- are you the person
25 responsible for designating something a concept project?

1 MR. LICHTMAN: Asked and answered.

2 THE WITNESS: No, I'm not.

3 BY MS. CASADONTE-APOSTOLOU:

4 Q. Who was -- do you know who was the person
5 responsible for making that designation whether
6 something is a concept project?

7 A. It -- it's not so much an official
8 designation, but it's anything that the concept
9 resources would be working on.

10 Q. And by resource -- and by "concept
11 resources," do you mean people?

12 A. People.

13 Q. Do you know whether the NSBL lanes
14 provided to Full Circle were part of a concept project?

15 MR. LICHTMAN: Objection. Lacks
16 foundation.

17 THE WITNESS: Yeah. I don't -- I don't
18 recall if they were given a designation.
19 Again, that project was underway as I was
20 joining R&D. I don't know if there was an
21 official classification of what they were or
22 not. I know they were just spoken about as
23 prototypes and that they needed to get done
24 quick.

25